

**ASSEMBLY BILL**

**No. 926**

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**Introduced by Assembly Member Hayashi**

February 18, 2011

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An act to add and repeal Section 2401.1 of the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

AB 926, as introduced, Hayashi. Physicians and surgeons: direct employment.

Existing law, the Medical Practice Act, restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law established, until January 1, 2011, a pilot project to allow qualified district hospitals that, among other things, provide more than 50% of patient days to the care of Medicare, Medi-Cal, and uninsured patients, to employ a physician and surgeon, if the hospital does not interfere with, control, or otherwise direct the professional judgment of the physician and surgeon. The pilot project authorized the direct employment of not more than 20 physicians and surgeons by all of those hospitals to provide medically necessary services in rural and medically underserved communities. Existing law imposed specified duties on the Medical Board of California with regard to the pilot project.

This bill would, until January 1, 2022, reenact the pilot project to allow all qualified district hospitals to employ not more than 50 physicians and surgeons, under circumstances described above. The bill would require the Medical Board of California to report to the Legislature by October 1, 2020, on the effectiveness of the pilot project.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 2401.1 is added to the Business and  
2     Professions Code, to read:  
3     2401.1. (a) The Legislature finds and declares as follows:  
4     (1) Due to the large number of uninsured and underinsured  
5     Californians, a number of California communities are having great  
6     difficulty recruiting and retaining physicians and surgeons.  
7     (2) In order to recruit physicians and surgeons to provide  
8     medically necessary services in rural and medically underserved  
9     communities, many district hospitals have no viable alternative  
10    but to directly employ physicians and surgeons in order to provide  
11    economic security adequate for a physician and surgeon to relocate  
12    and reside in their communities.  
13    (3) The Legislature intends that a district hospital meeting the  
14    conditions set forth in this section be able to employ physicians  
15    and surgeons directly and to charge for their professional services.  
16    (4) The Legislature reaffirms that Section 2400 provides an  
17    increasingly important protection for patients and physicians and  
18    surgeons from inappropriate intrusions into the practice of  
19    medicine, and further intends that a district hospital not interfere  
20    with, control, or otherwise direct a physician and surgeon's  
21    professional judgment.  
22    (b) A pilot project to provide for the direct employment of a  
23    total of 50 physicians and surgeons by qualified district hospitals  
24    is hereby established in order to improve the recruitment and  
25    retention of physicians and surgeons in rural and other medically  
26    underserved areas.  
27    (c) For purposes of this section, a qualified district hospital  
28    means a hospital that meets all of the following requirements:  
29    (1) Is a district hospital organized and governed pursuant to the  
30    Local Health Care District Law (Division 23 (commencing with  
31    Section 32000) of the Health and Safety Code).  
32    (2) Provides a percentage of care to Medicare, Medi-Cal, and  
33    uninsured patients that exceeds 50 percent of patient days.  
34    (3) Is located in a county with a total population of less than  
35    750,000.

1 (4) Has net losses from operations in fiscal year 2008–09, as  
2 reported to the Office of Statewide Health Planning and  
3 Development.

4 (d) In addition to the requirements of subdivision (c), and in  
5 addition to other applicable laws, a qualified district hospital may  
6 directly employ a licensee pursuant to subdivision (b) if all of the  
7 following conditions are satisfied:

8 (1) The total number of physicians and surgeons employed by  
9 all qualified district hospitals under this section does not exceed  
10 50.

11 (2) The medical staff and the elected trustees of the qualified  
12 district hospital concur by an affirmative vote of each body that  
13 the physician and surgeon's employment is in the best interest of  
14 the communities served by the hospital.

15 (3) The licensee enters into or renews a written employment  
16 contract with the qualified district hospital prior to December 31,  
17 2015, for a term not in excess of four years. The contract shall  
18 provide for mandatory dispute resolution under the auspices of the  
19 board for disputes directly relating to the licensee's clinical  
20 practice.

21 (4) The total number of licensees employed by the qualified  
22 district hospital does not exceed five at any time.

23 (5) The qualified district hospital notifies the board in writing  
24 that the hospital plans to enter into a written contract with the  
25 licensee and the board has confirmed that the licensee's  
26 employment is within the maximum number permitted by this  
27 section. The board shall provide written confirmation to the hospital  
28 within five working days of receipt of the written notification to  
29 the board.

30 (e) (1) The board shall report to the Legislature not later than  
31 October 1, 2020, on the evaluation of the effectiveness of the pilot  
32 project in improving access to health care in rural and medically  
33 underserved areas and the project's impact on consumer protection  
34 as it relates to intrusions into the practice of medicine.

35 (2) The report to be submitted pursuant to paragraph (1) shall  
36 be submitted in compliance with Section 9795 of the Government  
37 Code.

38 (f) Nothing in this section shall exempt the district hospital from  
39 any reporting requirements or affect the board's authority to take  
40 action against a physician and surgeon's license.

- 1 (g) This section shall remain in effect only until January 1, 2022,
- 2 and as of that date is repealed, unless a later enacted statute that
- 3 is enacted before January 1, 2022, deletes or extends that date.

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